IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

-

WRIT PETITION NO : 8835 of 2004

Between:

V.Nageswara Rao, s/o Venkateswara Rao,
aged 47 years, r/o Eklaspoor Village,

Kotgir Mandal, Nizamabad District. **..... PETITIONER**

AND

1. Mandal Revenue Officer, Kotgir Mandal, Nizamabad District.
2. Revenue Divisional Officer, Bodhan, Nizamabad District.
3. Uppuluri Shanmukheswara Rao, s/o Raghaviah,
   aged about 57n years, r/o Eklaspoor Village,

Kotgir Mandal, Nizamabad District. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, particularly one in the nature of mandamus, declaring the proceedings of the 1st respondent in No.B/3865/2003 dt.10-3-2004 and also the proceedings of the 2nd respondent in proceedings No.A2/3018/2001 dt.5-4-2004 as illegal, arbitrary, unreasonable, without authority of law, violative of principles of natural justice and also violative of Articles 14, 21 and 300-A of the Constitution of India and issue a consequential direction to the respondents herein not to give effect to the same and also further issue a consequential direction to the 2nd respondent herein not to proceed any further in case No.A2/3018/2001.

Counsel for the Petitioner: MR.M.RAJAMALLA REDDY

Counsel for the Respondent Nos.1 & 2: GP FOR Irrigation and CAD.

Counsel for the Respondent No.3: Mr.P.Rajasekhar

The Court at the stage of admission made the following :

ORDER:

Records produced by the learned Government Pleader for Revenue clearly disclose that the petitioner, who purchased the property four years back, highhandedly filled the existing canal, and the same was ordered to be restored, by the 1st respondent-Mandal Revenue Officer *vide* proceedings dated 10-3-2004. Against the said proceedings, the petitioner filed an appeal before the 2nd respondent-Revenue Divisional Officer, who posted the same for hearing on 08-04-2004, while staying the proceedings. When the stay was in operation, a complaint was made that the petitioner dug the bund and filled up the existing canal without waiting for the final orders. The 2nd respondent-Revenue Divisional Officer *vide* proceedings dated 05-04-2004 vacated the interim stay granted earlier stating that the allegations made in the complaint were found to be true in the field inspection, which was conducted on 03-04-2004. Thereafter the impugned proceedings were taken up for hearing on 08-04-2004 on which date, the 3rd respondent herein was cross-examined by the petitioner and his statement was also recorded.

In view of the same, the 2nd respondent-Revenue Divisional Officer shall pass final orders on the appeal, after providing an opportunity to both the parties, by considering the objections raised by the petitioner with regard to the jurisdiction also. .

The Writ petition is accordingly disposed of. No order as to costs.

LUR 19-11-2004

Copy to:

1. The Mandal Revenue Officer, Kotgir Mandal, Nizamabad District.
2. The Revenue Divisional Officer, Bodhan, Nizamabad District.
3. Two CCs to the G.P. for Irrigation and CAD,

High Court Buildings, High Court of A.P., Hyderabad.(O.U.T.)

4. Two CD copies.